

UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

United States of America

v.

Daniel PETATAN-LIBORIO

a.k.a. Daniel Petatan Liborio, Daniel Pitatan-Liborio,

Moises Petatan-Liborio, Daniel N Petatan, and

Daniel Petatan

Case No.

1:18mj314

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 05, 2018 in the county of Rowan in the
Middle District of North Carolina, the defendant(s) violated:

Code Section

8 USC Section 1326(a) & (b)(2)

Offense Description

Being found in the United States while an alien being previously removed or deported from the United States subsequent to a conviction for commission of an aggravated felony without the express consent of the Attorney General or the Secretary of the Department of Homeland Security to reapply for admission to the United States, in violation of Title 8, United States Code, Sections 1326(a) & (b)(2).

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.



Complainant's signature

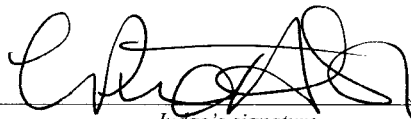
Erin North, Deportation Officer

Printed name and title

Sworn to before me and signed in my presence.

Date:

10/19/18



Judge's signature

City and state:

Greensboro, North Carolina

L. Patrick Auld, United States Magistrate Judge

Printed name and title

IN UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

AFFIDAVIT

I, Erin North, Deportation Officer, U.S. Immigration and Customs Enforcement, United States Department of Homeland Security, being duly sworn, state that:

1. Your Affiant is a graduate of the Federal Law Enforcement Training Center (FLETC) and has been employed as a federal officer of Immigration and Customs Enforcement (ICE) for thirteen years, during which time she has conducted numerous investigations relating to administrative and criminal violations of the Immigration & Nationality Act (INA).

2. The information contained in this affidavit is based on your Affiant's personal participation in this investigation and from information provided to your Affiant by other law enforcement officers. This affidavit is submitted for the limited purpose of establishing probable cause to support the issuance of a criminal complaint against Daniel PETATAN-LIBORIO, also known as Daniel Petatan Liborio, Daniel Pitatan-Liborio, Moises Petatan-Liborio, Daniel N Petatan, and Daniel Petatan [hereafter referred to as PETATAN-LIBORIO]. Your Affiant has not included each and every fact

known to her concerning this investigation but has set forth only those facts believed to be necessary for said purpose.

3. Your Affiant respectfully asserts that sufficient evidence exists to support a probable cause finding that PETATAN-LIBORIO has violated Title 8, United States Code, Sections 1326(a) & (b)(2) (illegal re-entry into the United States by an alien who was previously removed from the United States subsequent to the conviction for the commission of an aggravated felony). PETATAN-LIBORIO did not obtain the consent of the Attorney General of the United States prior to March 1, 2003, nor the Secretary of the Department of Homeland Security after February 28, 2003, to reapply for admission to the United States after said removal.

UP Affiant
law enforcement officers
4. On October 5, 2018, PETATAN-LIBORIO was arrested by ~~Salisbury, NC, police~~ in Rowan County for ~~misdemeanor larceny~~, possession of burglary tools and possession of drug paraphernalia, and was transported to the Rowan County Jail in Salisbury. Rowan County Jail Officers submitted an Immigration Alien Query (IAQ) to the ICE Law Enforcement Support Center (LESC) that included the arrestee's name and date of birth. The LESC report that was generated found that Immigration A-file number XXX-640-737, FBI number XXX148NC6, and State Identification Numbers NCXXX6837A and NVXXX39855, appeared to relate to the subject in their custody; and further reported that ICE records indicate that the subject of

and released and later that day he was again arrested, this time for misdemeanor larceny,

UP Affiant

the report was removed from the United States without record of a legal reentry. ICE responded to the query and lodged an ICE detainer against PETATAN-LIBORIO with the Rowan County Jail in Salisbury.

5. On October 12, 2018, PETATAN-LIBORIO was convicted in Rowan County, NC, District Court for misdemeanor larceny, in violation of North Carolina General Statute 14-72(A), and sentenced to eight (8) days of incarceration. The court docket is 2018CR54336; the date of arrest was October 5, 2018.

6. On October 13, 2018, ICE fingerprinted and photographed PETATAN-LIBORIO at the Rowan County Jail in Salisbury, NC, where he was advised of his Miranda rights in a language, which he understands (Spanish), which he waived in writing and made in part the following statement in response to questioning:

- a. that his true name is Daniel Petatan Liborio;
- b. that he was born February 16, 19XX, in Guerrero, Mexico;
- c. that he is a citizen of Mexico;
- d. that he last entered the United States walking into Texas, illegally, in 2013;
- e. that he does not now have immigration papers;
- f. that he has previously been deported from the United States, twice;

g. that he has not applied to the Attorney General or the Secretary of Homeland Security for permission to reenter the United States; and

h. that he knew that it was a violation of federal law to return to the United States without obtaining the permission of the Attorney General or the Secretary of Homeland Security to reenter the United States.

7. PETATAN-LIBORIO's fingerprints were subsequently submitted through Next Generation Identification (NGI), which is connected to the National Crime Information Center (NCIC), and the automated biometric identification system used by ICE termed IDENT. The fingerprint-based reports that were generated disclosed that he was the subject of Immigration A-file XXX-640-737, FBI# XXX148NC6, State Identification Numbers NCXXX6837A and NVXXX39855.

8. Your Affiant conducted criminal justice database searches and reviewed Immigration A-file XXX-640-737 relating to PETATAN-LIBORIO and discovered that:

a. his name is Daniel PETATAN-LIBORIO, per his own declaration;

b. he is also known as Daniel Petatan Liborio, Daniel Pitatan-Liborio, Moises Petatan-Liborio, Daniel N Petatan, and Daniel Petatan;

c. he is citizen of Mexico by virtue of birth in Guerrero, Mexico, on February 16, 19XX, per his own declaration. He has also used February 16, 1979, as his date of birth;

d. he was assigned FBI number XXX148NC6; State Identification Numbers NCXXX6837A and NVXXX39855, United

States Marshal Service Registration Number XXX94-308, and Nevada Department of Corrections Number XXX81;

e. on September 1, 1998, he was apprehended by United States Border Patrol at/near Campo, CA, determined to be unlawfully present in the United States, fingerprinted, and processed. He was processed under name Moises Petatan-Liborio and date of birth February 16, 1979; however, the disposition is unknown;

f. on September 4, 1998, he was apprehended by United States Border Patrol at/near Campo, CA, determined to be unlawfully present in the United States, fingerprinted, and processed; however, the disposition is unknown;

g. on September 6, 1998, he was apprehended by United States Border Patrol at/near Campo, CA, determined to be unlawfully present in the United States, fingerprinted, and processed; however, the disposition is unknown;

h. on April 30, 2007, he entered a plea of guilty in Clark County, NV, District Court for attempt possession of stolen vehicle, in violation of Nevada Revised Statutes 193.330 and 205.273, and it was ordered that PETATAN-LIBORIO be committed to the custody of the Director of the Department of Corrections of the State of Nevada for a period of not more than one-hundred-ninety (190) days to complete a program of regimental discipline before sentencing. He was further ordered that if he was determined to be ineligible for the program or did not complete the program, that PETATAN-LIBORIO would be returned to the Clark County, NV, Detention Center and that the matter would be put back on the calendar;

i. on July 16, 2007, after a parole and probation officer provided the Clark County, NV, District Court with a written statement notifying that PETATAN-LIBORIO had not successfully completed the regimental discipline ordered on April 30, 2007, he was adjudged guilty for felony attempt possession of stolen vehicle, in violation of Nevada Revised Statutes 193.330 and 205.273, and sentenced to twelve to thirty-two (12 - 32) months of imprisonment. The case number is C231153 (notated

elsewhere as 07 C 231153); the date of arrest was September 29, 2006;

j. on August 21, 2007, he was encountered by ICE while incarcerated at the Nevada Department of Corrections and subsequently processed for removal proceedings;

k. on March 4, 2008, he was convicted in Las Vegas, NV, Municipal Court for obstructing peace officer, in violation of Nevada Revised Statute 197.190. The case number is C0680535A; the date of arrest was February 29, 2008;

l. on March 4, 2008, he was convicted in Las Vegas, NV, Municipal Court for possession of drug paraphernalia, in violation of Nevada Revised Statute 453.566. The case number is C0680272B; the date of arrest was February 29, 2008;

m. on March 4, 2008, he was convicted in Las Vegas, NV, Municipal Court for petit larceny, in violation of Nevada Revised Statute 205.240. The case number is C0680272A; the date of arrest was February 29, 2008;

n. on March 19, 2008, he was ordered removed from the United States to Mexico by an Immigration Judge in Las Vegas, NV, under the name Daniel Petatan-Liborio. He waived appeal that same day;

o. on March 20, 2008, agency form I-205 Warrant of Removal/Deportation was executed by including his fingerprint, signature, and photograph, and PETATAN-LIBORIO was removed from the United States to Mexico, on foot, at El Paso, TX, under the name Daniel Petatan-Liborio, being advised prior to removal that he was prohibited from entering, attempting to enter, or being in the United States for a period of ten years from the date of his departure from the United States without the express consent of the Attorney General. He was further advised that doing so without the express consent of the Attorney General was a crime;

p. on September 1, 2012, he was encountered by United States Border Patrol at/near Sonoita, AZ, determined to be

unlawfully present in the United States, and transported to the Sonoita, AZ, Border Patrol Station where his order of removal was reinstated by designated officials;

q. on September 11, 2012, he was convicted in the United States District Court for the District of Arizona for illegal entry, in violation of Title 8, United States Code, Section 1325, and sentenced to one hundred fifty (150) days of imprisonment. The case number is 12-12806-001M;

r. on January 29, 2013, agency form I-205 Warrant of Removal/Deportation was executed by including his fingerprint, photograph, and signature, and PETATAN-LIBORIO was removed from the United States to Mexico, on foot, at the Paso Del Norte Bridge in El Paso, TX, under the name Daniel Petatan-Liborio, being advised prior to removal that he was prohibited from entering, attempting to enter, or being in the United States without the express consent of the Secretary of Homeland Security. He was further advised that doing so without the express consent of the Secretary of Homeland Security was a crime.

9. On October 17, 2018, Department of Homeland Security's Biometric Support Center – West Latent Print Examiner A. Gordon compared the known fingerprint impressions of PETATAN-LIBORIO taken by ICE Officers on FD-249 arrest ten print card dated October 13, 2018, to underlying felony Las Vegas Metropolitan Police arrest ten print card dated September 29, 2006; NVICE FD-249 arrest ten print card from A-file XXX-640-737 dated August 21, 2007; I-294 Warning to Alien Ordered Removed from A-file XXX-640-737 dated March 19, 2008; I-205 Warrant of Removal/Deportation from A-file XXX-640-737 executed March 20, 2008, at El Paso, TX; AZCBP FD-249 arrest ten print card from A-file XXX-640-737 dated

September 1, 2012; USMS Release Authorization from A-file XXX-640-737 showing date of release January 28, 2013; and I-205 Warrant of Removal/Deportation from A-file XXX-640-737 executed January 29, 2013, at El Paso, TX, and determined that the fingerprints were made by the same individual.

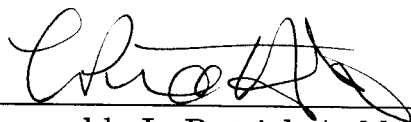
10. On October 17, 2018, your Affiant conducted record checks of immigration indices and was unable to locate any record that PETATAN-LIBORIO was granted permission by the Attorney General of the United States or the Secretary of the Department of Homeland Security to apply for admission to the United States after deportation/removal.

11. Based on the above information your Affiant respectfully requests the issuance of a criminal complaint against Daniel PETATAN-LIBORIO.



Erin North, Deportation Officer
U.S. Immigration and Customs Enforcement

Sworn to and subscribed before me this 19th day of October, 2018,



Honorable L. Patrick Auld
United States Magistrate Judge